

### Remarks

This Amendment is in response to the Office Action dated **November 24, 2009**.

Claims 23 and 24 are amended to include new limitations discussed in greater detail below. Claims 11, 12, 13, 14, 27 and 28 have been cancelled. Claim 29 is new.

Claims 3, 6-8, 23-25 and 26 have been rejected as obvious from Weavers, US 4444181 in view of Nicola (US 2580821). The rejection is traversed.

Amended claim 23 introduces two new limitations. The first limitation is defined as follows:

...each fixing portion comprising one annulus having an outer radius or two annuli each having a respective outer radius the two annuli being located relative to each other so that there respective outer radii touch or overlap, and wherein each annulus of each fixing portion has a central hole capable of receiving a bone screw.

The second limitation introduced into claim 23 is as follows:

...the fixing portions and the connecting members are arranged so that the connecting members extend from respective annuli of the first and second fixing portions which are closest to each other.

The physical manifestation of these amendments are most clearly illustrated, without limitation, in Figures 11 and 14. Figure 11 shows a bone fixing device where one of the fixing portions comprises two annuli, while the other comprises one annulus. The fixing on the left hand side comprising the two annuli shows that the two annuli are located relative to each other so that their respective outer radii overlap. This relationship is also shown in Figure 14 which shows the fixing portions each comprising two annuli where again the respective radii of the annuli in each fixing portion overlap.

This feature is in contrast to the reference Nicola where firstly, while each fixing portion may comprise a pair of holes 2, there is only one annulus at each fixing portion. Nicola shows each fixing portion comprising a square region formed with a central hole 2 from which an arm extends inwardly, with an annulus is formed at a distant end of the arm. Thus in Nicola there is no disclosure of a fixing portion having two annuli *per se*, nor two annuli where the outer

radius of each annulus overlaps.

It is noted that in Nicola, two countersunk holes (2) are shown in each “fixing arm”. We submit that it is not appropriate or correct to equate the countersink per se of each hole with an annulus as defined in the present claims. The reason for this is that a countersink is merely a feature of a hole and does not create or form an annulus. As is well known in the art, a countersink is formed about a hole so that the hole can receive a head of a screw or a nut in a manner so that an upper surface of the screw or nut lies flush with the surface in which the countersink is made. This ensures that the head of the screw or bolt does not protrude above the surface. As it may be appreciated, this would be particularly problematic with bone fixing plates. Thus, a countersink is a feature of a hole and countersinking is performed on a hole. The action of countersinking does not form or create an annulus. That is, if one is provided with a rectangular or square plate and forms a countersink about a hole formed in the plate, the formation of the countersink does not convert the square or rectangular plate into an annulus. In any event, as indicated above, even if it were the case (which we do not concede) that the countersink in each hole 2 creates respective annuli, then Nicola still does not contain the limitation *that the outer radius of each annulus overlaps or touches*.

The second limitation introduced into claim 23 specifies that the fixing portions and the connecting members are arranged so that *the connecting members extend from the closest annuli of the first and second fixing portions*. Thus, looking at Figure 14 of the present application, the connecting members 318 extend from the innermost (*i.e.*, closest) annulus of each of the fixing portions. This is also shown in Figure 11 of the present application but as the two annuli on the left hand side are equally distanced from the annulus of the fixing portion on the right hand side, the connecting members 318 extend one from each of the two annuli of the fixing portion on the left hand side.

The equivalent feature in Nicola would require that the spring arms 4 extend from the respective annuli at the innermost ends of the arms of each end portion 1. However clearly this is not the case.

Weavers also fails to show the features discussed above.

It is therefore submitted that the limitations introduced into claim 23 constitute structural limitations to the bone fixing device not taught or suggested in the references relied

upon by the Examiner.

Further, the new limitation of claim 24 specifies that “the connecting members join the respective annuli from which they extend on a circumference of the annuli”. Again, in Nicola the connecting members (spring arms 4) do not join the annulus from which they extend on a circumference of the annulus as they do not extend from an annulus at all. Weavers also does not have this feature.

Please note new claim 29 is intended to introduce the limitation where the outer edges of the connecting members 18 are spaced by a distance approximately the same as the diameter of an annulus prior to deforming the connecting members. This feature is shown in Figures 1, 11 and 14 where the transverse distance between the outer edges of each of the connecting members 18 is the same as the outer diameter of annulus 12, 212 or 612 respectively. This feature is also described in the specification as filed in the sentence bridging pages 5 and 6.

In view of the foregoing amendments and remarks it is submitted that the application is in condition for allowance. Early and favorable action thereon is requested.

Respectfully submitted,  
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